

distinguished over the cited references, alone or in combination.

Reconsideration of the application is respectfully requested.

Applicants have carefully reviewed the Giordano, Nelson and Cacciatore references and the grounds for rejection set forth at pages 2 - 4 of the October 20, 1995 office action. As will be discussed below, applicant respectfully contends that the references do not teach the claimed invention. When reviewing the grounds for rejection of the claims, it was readily apparent that the various features set forth in the references do not teach or disclose the elements set forth in the claims. As is well known, the fact that the references arguably teach certain concepts of a claimed invention does not necessarily carry through that the references teach the claimed invention. In particular, with reference to claim 1, the method set forth therein provides generating a voltage reference that is substantially constant over a range of temperatures, receiving a programmable input that specifies a threshold temperature, generating a sensing voltage, generating a scale factor based upon the programmable input, scaling the sensing voltage based on the scale factor to produce a comparison voltage, and generating a signal when the comparison voltage, exceeds the reference voltage.

The office action cites Giordano as disclosing an integrated circuit thermal sensor. Although Giordano teaches a sensor which turns on a signal that increases with increasing temperature, as noted in the office action, Giordano does not teach or suggest a programmable input that is used to generate a scale factor that is used to modify the sensed voltage for a comparison with the reference voltage. Furthermore, Giordano does not teach a reference voltage that is substantially constant over a range of temperatures. The Examiner cites Nelson as providing a teaching as to

one shortcoming of Giordano. Although applicant contends that there is no teaching to combine Giordano with Nelson, as the need for a constant voltage reference is not called for in Giordano, the combination results in a circuit that neither teaches nor discloses the claimed invention.

It is contended in the office action that Nelson teaches a scaling of the sensed temperature signal. Review of Nelson shows that the scaling factor is used in Nelson to scale the reference voltage as a function of temperature so that a nominal zero temperature dependence is achieved. This is quite different from the claimed present invention. For example, with respect to claim 1, the claim requires that a programmable input specifies a threshold temperature, this programmable input being used to generate a scale factor that is used to scale the sensed voltage, and the scaled sense voltage being used as a comparison voltage to compare against the reference voltage that is substantially constant over a range of temperatures to generate a signal when the comparison voltage exceeds the reference voltage. Thus, there clearly is no teaching to take a programmable input, use it to generate a scale factor which is used to scale the sensed voltage.

It is well settled in applicable case law that "it is impermissible within the framework of §103 to pick and choose from any one reference only so much as will support a given position to the exclusion of other parts necessary to the full appreciation of what such a reference fairly suggests to one of ordinary skill in the art", in Re Wasselau, 147 USPQ, 391, 393 (CCPA 1965).

With respect to the present combination, one skilled in the art from reviewing Giordano and Nelson would not know to take Nelson's

reference voltage, make it constant and not scaled, and instead scale the sensed voltage of Giordano, without the use of hindsight.

Similar reasoning applies to the application of the Cacciatore reference. The Cacciatore reference discloses a thermostat used in a heating and cooling system environment, such as a room or building. Cacciatore teaches a programmable thermostat; but that does not translate necessarily to a teaching to combine Cacciatore to achieve the programmable input that is used to generate a scale factor that is used to scale the sensing voltage as set forth in the claims. In fact, Cacciatore teaches that the scaling would occur at the reference which in the claimed invention is substantially constant over a range of temperatures.

Therefore, in summary, applicant respectfully contends that the combination of the Giordano, Nelson and Cacciatore references, even if there were a teaching to combine, would not result in the claimed invention. In particular, applicant respectfully contends that the office action simply recites generalized features without regard to the specific language of the claims. Any obviousness conclusion drawn from such generalized concepts can only be achieved using impermissible hindsight to generate a device and method as set forth in the claims.

Applicant respectfully requests that if this combination of references and rejection is maintained, that the claim language of the presently claimed invention be referenced to the corresponding portion of the cited references with specificity to show the teachings argued in the present office action.

In summary, applicant respectfully contends that claims 1-19 are distinguished over the Giordano, Nelson and Cacciatore references, alone or in combination. Allowance of the claims is respectfully requested.

Respectfully submitted,

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2/20/96

Date